

CENTRAL INTELLIGENCE AGENCY

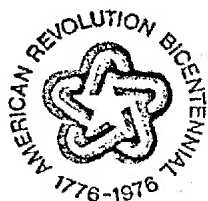
WASHINGTON, D.C. 20505

The Honorable Walter F. Mondale
President of the Senate
Washington, DC 20510

Dear Mr. President:

Submitted herewith, pursuant to the provisions of 5 U.S.C. 552(d), is the report from the Central Intelligence Agency concerning its administration of the Freedom of Information Act during calendar year 1976.

During the past year, 3,49⁰~~7~~ requests for records were logged and put into processing by the Agency, of which 761 were submitted under the Freedom of Information Act. An additional 1,002 requests were received during 1976 but not processed pending receipt of additional information from the requesters. ^{These} The unlogged letters of request were, without exception, requests for access to personal records, which, under CIA regulations, are now processed under the provisions of the Privacy Act of 1974 rather than the Freedom of Information Act. A summary of Agency activity in this regard, including Privacy Act and Executive Order 11652 requests as well as Freedom of Information requests, is provided in the



statistical table below. You will note that the overall processing backlog was reduced by ³²³~~353~~ cases during the year.

	<u>FOIA</u>	<u>PA</u>	<u>EO</u>
1. Requests carried over from CY 1975	1,130	356	68
2. Requests logged during CY 1976	761	2,356	373
3. Total final responses during CY 1976	1,355	2,114	344
a. Granted in full	148	154	81
b. Granted in part	562	404	220
c. Denied in full	122	56	37
d. No record available and misc. (e.g., canceled or withdrawn)	523	1,500	6
4. Requests carried over to CY 1977	536 506	598	97

In addition to the above, the Agency responded during 1976 to numerous other requests from members of the public for unclassified CIA publications such as maps, reference aids, monographs, and translations of foreign language broadcasts and press items--either directly or by referral to those Federal agencies charged with responsibility for the distribution of such CIA products.

Unless Freedom of Information requests happened to duplicate those previously processed, the Agency was seldom able to respond within the 10 working days stipulated by the Act--or indeed within the 20 days permitted by the Act when

certain conditions are met. A number of factors, some of which are perhaps unique to this Agency, have contributed to this, including the following considerations:

1. The heavy volume of requests received during 1975 resulted in processing backlogs which persist to this date. In an effort to be fair to all, requests, unless exceptional circumstances prevail, are processed on a "first come, first served" basis.
2. Because of the specialized missions of various components and the security requirement for compartmentalization, the CIA has no central file or index to its recordholdings. A search for "all" information on a given topic may therefore entail the searching of several file systems, under different command authorities and with varying degrees of retrieval capabilities.
3. If "hits" made during the index search ~~phase~~ relate to inactive records, a not infrequent occurrence, it takes two or three days to retrieve them from remote storage in order that their relevance can be determined.
4. Searches in one component will often surface records originated by, or of subject-matter interest to, other components or other departments or agencies. The time required for reproduction and referral of

such documents to the organizations having cognizance further delays completion of processing.

5. The review of security-classified records for releasability is a very time-consuming process and, in the case of intelligence records, too important to be done in haste. A single request can necessitate the classification review of hundreds or thousands of documents, each of which must be carefully examined by a limited number of qualified experts, many of whom are relatively senior officers with numerous other demands placed upon their time.
6. Finally, the growing number of Freedom of Information appeals and law suits during 1976 has resulted in the diversion of available manpower from the initial processing of requests.

Be assured that the Agency has made, and continues to make, every effort to comply fully with both the letter and spirit of the Freedom of Information Act ^{Consistent with} ~~as well as~~ the Director's statutory mandate to protect intelligence sources and methods from unauthorized disclosure. Despite the sizable commitment of resources devoted to administration of the Act, however, we have during the past year been unable to eliminate our processing backlogs and have rarely been able to meet the statutory deadlines for responses to either requests or appeals. More reasonable time limits for replies

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to requests and appeals seem clearly justified. We urge, therefore, that the Congress amend this aspect of the law *are reasonable and* so that the time constraints take into account both the volume of records involved in particular requests or appeals and *the time* *Required to determine* their possible sensitivity with respect to national security matters.

FREEDOM OF INFORMATION ACT

ANNUAL REPORT TO THE CONGRESS FOR THE YEAR 1976

1. Total number of initial determinations not to comply with a request for records made under subsection 552(a): 684

2. Authority relied upon for each such determination:

(a) Exemptions in 552(b):

<u>Exemption invoked</u>	<u>Number of times (i.e., requests) invoked</u>
(b) (1)	493
(b) (2)	106
(b) (3)	594
(b) (4)	11
(b) (5)	123
(b) (6)	295
(b) (7)	230
(b) (8)	0
(b) (9)	0

(b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., requests) invoked</u>
50 U.S.C. 403(d)(3) and/or 50 U.S.C. 403g	594

(c) Other authority: None

In 16 instances, requesters were asked to contact other agencies, or their requests were referred directly to other agencies, when it was ascertained that the records sought were not under CIA jurisdiction. Twenty other requests were withdrawn after processing commenced. Finally, 126 cases were canceled because of the failure of the requesters to respond to letters asking for clarification, additional identifying information, release from third parties, fee deposits, etc. We do not regard any of the above as denials inasmuch as the Agency was prepared to act on the requests. They are therefore not included in the 684 figure given in answer to question 1.

3. Names and titles of each person who is responsible for the denial of records requested and the number of instances of participation of each:

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4. Total number of intra-agency appeals from adverse initial decisions made pursuant to subsection (a)(6): 184 — 7,
- (a) Number of appeals in which, upon review, request for information was granted in full: 3
- (b) Number of appeals in which, upon review, request for information was denied in full: 41
- (c) Number of appeals in which, upon review, request was denied in part: 95
5. Authority relied upon for each such appeal determination:
- (a) Exemptions in 552(b):

<u>Exemption invoked</u>	<u>Number of times (i.e., appeals) invoked</u>
(b) (1)	92
(b) (2)	27
(b) (3)	115
(b) (4)	0
(b) (5)	21
(b) (6)	79
(b) (7)	51
(b) (8)	0
(b) (9)	0

- (b) Statutes invoked pursuant to Exemption No. 3:

<u>Statutory citation</u>	<u>Number of times (i.e., appeals) invoked</u>
50 U.S.C. 403(d)(3) and/or 50 U.S.C. 403g	115

- (c) Other authority: None

In two instances, it was determined, after logging the appeals, that the records under contention were not under CIA jurisdiction, and the requesters were thereupon advised to direct their appeals to the appropriate agencies. In another case, the denied documents which were the subject of the appeal were discovered to be not germane to the request. Since no records were denied by this Agency, the above appeals were not included in the 184 figure given in response to question 4, above.

6. Names and titles of each person who, on appeal, is responsible for the denial in whole or in part of records requested and the number of instances of participation of each: STAT

7. Provide a copy of each court opinion or order giving rise to a proceeding under subsection (a)(4)(F); etc.: None
8. Provide an up-to-date copy of all rules or regulations issued pursuant to or in implementation of the Freedom of Information Act (5 U.S.C. 552):

No amendments were published in 1976.

9. Provide separately a copy of the fee schedule adopted and the total dollar amount of fees collected for making records available:

See Tab A.

The total amount collected and transmitted for deposit in the U.S. Treasury during 1976 was \$10,035.10.

10. A. Availability of records:

As the CIA does not promulgate materials as described in 5 U.S.C. 552 (a)(2)(A)-(C), no new categories have been published.

In the case of each request made pursuant to the Freedom of Information Act, all reasonably segregable portions of records are released.

B. Costs:

During the past year, the Agency expended 181,995 man-hours in processing requests received under the Freedom of Information and Privacy Acts and under the mandatory classification review procedures of Executive Order 11652. Of this total, 60,484 man-hours were by subprofessional personnel, and the remaining 121,511 were by professional personnel. The average grade of subprofessional personnel involved in this activity is estimated to be GS-6/Step 3, and that of professional personnel to be GS-12/Step 5. The

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It should be emphasized that the above figures are very conservative. If official holidays, annual and sick leave benefits, and overtime payments were taken into account, the salary costs would be increased by at least 15 percent. Moreover, Government contributions to insurance, hospitalization, and retirement programs would raise the totals by an additional 10 percent.

No attempt has been made to calculate such costs as office space, equipment rentals, office supplies, EDP support, etc. It is believed, however, that these amounts would be minor in comparison with the salary figures provided above.

C. Compliance with time limitations for agency determinations:

- (I) Provide the total number of instances in which it was necessary to seek a 10-day extension of time: None

The Agency's processing backlogs have been such that in almost all instances the deadlines for responding to requests and appeals expired prior to our actually working on them. We

were not in a position, therefore, to assert that any of the three conditions upon which an extension must be based existed. We have therefore explained the problem to requesters and appellants and apprised them of their rights under the law.

(II) Provide the total number of instances where court appeals were taken on the basis of exhaustion of administrative procedures because the agency was unable to comply with the request within the applicable time limits: 14

(III) Provide the total number of instances in which a court allowed additional time upon a showing of exceptional circumstances, together with a copy of each court opinion or order containing such an extension of time: None

D. Internal Memoranda:

A copy of a Headquarters letter was provided to the Committee. None were issued during 1976. We anticipate the publication of a handbook in 1977 which will cover Agency procedures in considerable detail and will provide the Committee a copy.

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